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*Attorneys for the State of California,  
State Board of Equalization*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:

**CIRCUIT CITY STORES, INC., et al.,**  
  
Debtors.

Chapter 11

Case No. 08-35653 (KRH)

Jointly Administered

**DECLARATION OF KENNETH L. PARSONS IN SUPPORT OF MOTION OF THE  
STATE OF CALIFORNIA, STATE BOARD OF EQUALIZATION TO (i) RECONSIDER  
AND VACATE PRIOR ORDER OF THE COURT EXPUNGING CLAIM NUMBER  
13049; AND (ii) DEEM CLAIM NUMBER 13049 TIMELY FILED**

I, Kenneth L. Parsons, hereby state and declare as follows:

1. I am employed by the State of California State Board of Equalization (the "BOE") as a Business Tax Specialist. As such, I am fully familiar with the facts and circumstances set forth herein.

2. I submit this Declaration in support of the Motion of the State of California, State Board of Equalization to (i) Reconsider and Vacate the Prior Order of the Court Expunging Claim Number 13049; and (ii) Deem Claim Number 13049 Timely Filed. All

of the facts set forth in this Declaration are based upon my personal knowledge, my review of the relevant documents, or my experience, knowledge, and information concerning the BOE's operations. If I were called to testify, I would testify competently to the facts set forth herein.

3. On November 10, 2008, Circuit City and its affiliated companies (collectively, the "Debtors") filed with this Court petitions for relief under chapter 11 of the Bankruptcy Code. On November 25, 2008, Circuit City filed a motion to set May 11, 2009 (the "Bar Date") as the last day for governmental units to file pre-petition claims (the "Bar Date Motion"). [Docket # 411]. According to the Affidavit of Service for the Bar Date Motion [Docket # 676], the Debtors served the Bar Date Motion on BOE at the following address:

CALIFORNIA STATE  
BOARD OF EQUALIZATION  
P.O. BOX 942879  
SACRAMENTO, CA 94279-7072

However, the correct address for BOE (the "BOE Address"), as reflected on the Disallowed Claim form, is:

STATE BOARD OF EQUALIZATION  
SPECIAL PROCEDURES SECTION, MIC:55  
PO BOX 942879  
SACRAMENTO, CA 94279-0055

The omission of the "Special Procedures Section, MIC:55" rendered the mailing undeliverable to the Special Procedures Section of the BOE. This is the exclusive section that handles all bankruptcy matters for the BOE. As a result of the Debtors' failing, the bar date notice never arrived to the Special Procedures Section of the BOE.

4. On or about December 10, 2008, the Court entered an Order granting the Bar Date Motion (the "Bar Date Order"). Circuit City did not serve BOE with the Bar Date Order. On December 17, 2008, Circuit City served a Notice of Deadline for Filing Proofs of Claim.

5. Upon information and belief, the Debtors served BOE at various addresses, but not at the BOE Address listed above. Upon learning of the Bar Date, the BOE acted diligently in assembling their claim and timely filing it with the Court.

6. In the ordinary course of the BOE's business, employees are required to track and account for the time spent on each taxpayer file on an activity log. Attached hereto as Exhibit 1, is a true and correct copy of the Activity/Time Recap for Susan Hastie, a tax technician in the BOE's Special Operations Branch, for the dates April 29, 2009 and April 30, 2009 (the "Activity Log").

7. The Activity Log notes a particular employees work tasks and segregates them by a BOE assigned taxpayer account number. According to the records of the BOE, Circuit City Stores West Coast, Inc. was given account number 99-487429.

8. According to the Activity Log, the BOE mailed an unsecured claim to the Court on April 29, 2009 relating to the account number 99-487429. This claim would be assigned claim number 13049 and arrive at the Court on May 15, 2009.

9. On that same day, the BOE mailed a claim to the Court it labeled "Expense of Administration." That account number is noted as 097487429. This claim would be assigned claim number 13186 and arrive at the Court on May 11, 2009.

10. I have examined the records of the BOE and have noted that account number 097487429 has not been an active account with the BOE since March 8, 2009.

I have examined additional records associated with this transaction and I am certain that this entry could only reflect the administrative claim mailed to the Court on April 29, 2009 that was assigned claim number 13186 and was stamped received by the Court on May 11, 2009.

11. According to the Activity Log, on the following day, April 30, 2009, the BOE mailed another administrative claim to the Court for filing related to the BOE assigned taxpayer account number 17-692815. That claim would be assigned claim number 13187 and was received by the Court on May 11, 2009. A true and correct copy of the corresponding administrative claim is annexed hereto as Exhibit 2.

12. On or about October 28, 2010, approximately seven months after entry of the Expungement Order, Peter Larsen, Esq., Circuit City's outside tax counsel, sent a letter to the BOE referencing the fact that "Claim 13049 was filed late and the bankruptcy court disallowed the claim on March 31, 2010."

13. This was the first notice that the BOE received that the Court considered and disallowed its claim. BOE representatives subsequently spoke with Tim Gillis, an attorney in the same office as Mr. Larsen, who communicated his desire to compromise the tax issues relating to the Disallowed Claim. The Debtors and the BOE engaged in settlement discussions, specifically referencing the "late filing issue" as part of those discussions. Circuit City has communicated to the BOE its position regarding certain bad debt adjustments and asserted its disagreement with the amounts claimed by BOE. Although the BOE has requested specific additional documents from the Trustee to consider these debt adjustment assertions, to date, the BOE has not received any documents.

14. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: April 20, 2011  
Sacramento, California

  
KENNETH L. PARSONS

# **EXHIBIT 1**

**Activity/Time Recap for shastie**

Activity/Remarks	AcctNum	Minutes	Items
Payment Processing CHECKS: PAY:BD'S; CHECKSHEET; TO CASHIER'S	SR	60	4
Surety/Guarantor Demand ENTER: TO SUPERVISOR; SURETY LETTER WITH BANKRUPTCY CLAIM; MAILED 4/29	SR 97-771600	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; WITH SURETY LETTER; MAILED 4/29	SR 97-771600	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR, ALSO, EF EF 42-077383; MAILED 4/29	SR 99-487429 ✓	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; ALSO, SR OHB 99-487429; MAILED 4/29	EF 42-077383 ✓	30	
Claims - Bankruptcy ENTER: TO SUPERVISOR, EXPENSE OF ADMINISTRATION; MAILED 4/29	SR 097487429 ✓	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; MAILED 4/29	SR 100241866	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR, CLAIMS AGENT; MAILED 4/29	EF 42-082290	30	1
Claims - Other Legal ---RETURN FILES; LOAD PRINTER W/PAPER; PHOTOCOPIES; STATS	SR	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; PRIORITY & GEN CREDITOR'S; ALSO, SR CH 100-872620; MAILED 4/30	SR 97-313779	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; PRIORITY & GEN CREDITOR'S; ALSO, SR CH 97-313779; MAILED 4/30	SR 100872620	30	
Collections - Probate ENTER: TO SUPERVISOR DRAFT TO B LACEY 4/29 AND FINAL 5/7; MAILED 5/7; ALSO, SR KH 28-792817; TK MT 44-045006	SR 28-754923	30	1
Collections - Probate ENTER: TO SUPERVISOR DRAFT TO B LACEY 4/29; MAILED 5/7; FINAL TO SUPERVISOR 5/7; ALSO, SR KH 28-754923; TK MT 44-045006	SR 28-792817	30	
Collections - Probate ENTER: TO SUPERVISOR 4/29 DRAFT TO B LACEY; MAILED 5/7; FINAL TO SUPERVISOR 5/7; ALSO SR KH 28-754923, SR KH 28-792817	TK 44-045006	30	
Claims - Other Legal MAILED: 2-CLAIMS	SR 00-000001	30	2
Claims - Bankruptcy ENTER: TO SUPERVISOR 4/30; MAILED 5/7	SR 53-004028	30	1
Warrant/Keeper ENTER: TO SUPERVISOR 4/29; RETURN WITH NEW DATA PER AEE; TO SUPERVISOR 5/12; MAILED 5/15	SR 97-312113	30	1
<b>04/28/2009 Hours: 9.00 Fractional Minutes 0.00 Daily Totals:</b>		<b>540</b>	<b>17</b>
<b>Hours: 9.00 Grand Totals:</b>		<b>540</b>	<b>17</b>

Conversions: 60 mins. x 8 hrs. = 480 minutes 60 mins. x 9 hrs. = 540 minutes

**Activity/Time Recap for shastie**

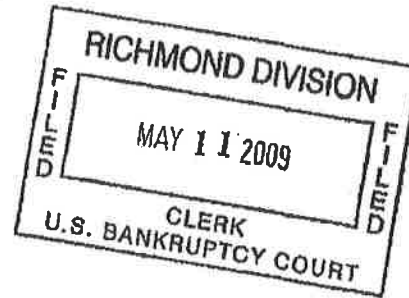
Activity/Remarks	AcctNum	Minutes	Items
Claims - Bankruptcy ENTER: TO SUPERVISOR; MAILED 4/30	SR 26-638199	30	1
Claims - Other Legal MAILED: 1-CLAIM	SR 00-000001	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; MAILED 5/7	SR 100896021	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; MAILED 5/7	SR 97-139090	30	1
Surety/Guarantor Demand ENTER: SURETY LETTER WITH PRIORITY CLAIM; MAILED 5/1	SR 099292337	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; CLAIM WITH SURETY LETTER; MAILED 5/1	SR 99-292337	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; EXPENSE OF ADMINISTRATION; MAILED 4/30	SR 17-692815	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR; SENT VIA GSO 5/4	SR 100906232	30	1
Warrant/Keeper ENTERED 4/28: TO SUPERVISOR 4/29; MAILED 5/7	SR 100778399	30	1
Warrant/Keeper ENTERED 4/28: TO SUPERVISOR 4/29; RETURNED WITH NEW DATA PER BLL; TO SUPERVISOR 5/12; MAILED 5/16	SR 100284418	30	1
Warrant/Till Tap ENTERED 4/28: TO SUPERVISOR 4/29; MAILED 4/30	SR 100879078	30	1
Warrant/Till Tap ENTERED 4/28: TO SUPERVISOR 4/29	SR 13-864517	30	1
Warrant/Keeper ENTERED 4/28: TO SUPERVISOR 4/29; MAILED 5/7	SR 100895679	30	1
Claims - Other Legal ~~RETURN FILES; LOAD PRINTER WPAPER; PHOTOCOPIES; STATS	SR	30	1
Claims - Other Legal MAILED: 6-CLAIMS; 1-EOA; 1-WARRANT	SR 00-000002	30	9
Claims - Bankruptcy ENTER: TO SUPERVISOR; EOA; RUSH DUE: 5/1; SENT VIA GSO 4/29/09	SR 27-831886	30	1
Claims - Bankruptcy ENTER: TO SUPERVISOR 4/30; WITH SURETY LETTER; MAILED 5/5	SR 100951378	30	1
Surety/Guarantor Demand ENTER: SURETY LETTER; WITH PRIORITY CLAIM 4/30; MAILED 5/5	SR 100951378	30	1
<b>04/29/2009 Hours: 9.00 Fractional Minutes 0.00 Daily Totals:</b>		<b>540</b>	<b>26</b>
<b>Hours: 9.00 Grand Totals:</b>		<b>540</b>	<b>26</b>

Conversions: 60 mins. x 8 hrs. = 480 minutes 60 mins. x 9 hrs. = 540 minutes



# **EXHIBIT 2**

EXHIBIT C



1 State Board of Equalization  
2 Special Procedures Section  
3 450 N Street, MIC: 55  
4 P O Box 942879  
5 Sacramento CA 94279-0055  
6 Telephone (916) 445-1122

7 UNITED STATES BANKRUPTCY COURT  
8 EASTERN DISTRICT OF VIRGINIA (RICHMOND)

9  
10 In re: CIRCUIT CITY STORES, INC.,  
11 Debtor(s)

Bkcy. Case No. 08-35653

12  
13 EXPENSE OF ADMINISTRATION  
14 CLAIM FOR TAXES

Chapter No. 11

15 Account No. SR OHB 17-692815  
16

17 1) The undersigned is an authorized representative of the California State Board of Equalization  
18 (hereinafter "Board") and is authorized to make this request on behalf of the Board.

19 2) The grounds for this liability is a tax duly declared, levied, determined or assessed under the  
20 provisions of the California Sales and Use Tax Law and, where applicable, Uniform Local Sales  
21 and Use Tax Ordinances, Transit District Transactions (Sales) and Use Tax Ordinances, penalty  
22 and interest.

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1 3) The debtor is liable to the Board in the following amounts:

2 (a) Tax for the period 11/10/08 to 12/31/08, interest and penalty claimed as EXPENSE OF  
3 ADMINISTRATION under 11 U.S.C. Section 507 (a)(2), \$325,605.29.

4 Additional interest after 4/30/09 to date of payment or until the case is converted to Chapter 7  
5 is claimed under Section 507 (a)(2) at the prevailing rate provided by Section 19269, California  
6 Revenue and Taxation Code.

7 4) The due date for the said tax has passed. No part of the said tax has been paid. There are no  
8 set-offs or counterclaims to the same. No note or judgment has been recovered therefrom, and  
9 the undersigned has not, nor has any person, to his/her knowledge or belief, for the use or benefit  
10 of the Board, received any manner of security for the said tax or interest or penalty whatsoever.

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15   
16 By: J. R. Williams  
17 Authorized Representative

18 Dated April 29, 2009  
19 At Sacramento, California

20 Mail all legal notices, correspondence and payments to the State Board of Equalization, Special  
21 Procedures Section, MIC: 55, P.O. Box 942879, Sacramento, CA 94279-0055 and include the  
debtor's Board of Equalization account number(s) for proper identification.

22 Make all monies payable to State Board of Equalization.  
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